IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

Bail Appl..No. 4638 of 2007()

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CMP.7027/2007 of J.M.F.C., KAYAMKULAM
CRIME NO.131/07 OF VALLIKUNNAM POLICE STATION.

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PETITIONER/ACCUSED NO. 1 & 2

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1. ASSIM S/O ABDUL ASSEES, AGED 23 YEARS,
   KOOTHADIVILAYIL VEEDU, ENATHUMANNADI P.O.,
   KADAMBANADU VILLAGE.

2. ANILKUMAR S/O GOPALAN, AGED 35 YEARS,
   SANKARA VILASAM, NELLIMUKKAL P.O.,
   MUNAPPALLY MURI, PERINGANADU VILLAGE.

BY ADV. SRI.N.UNNIKRISHNAN

RESPONDENTS: COMPLAINANT

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1. THE STATE OF KERALA, REP.BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
   VALLIKUNNAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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**B.A. No.4638 OF 2007**

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Dated this the 3rd day of August, 2007

**ORDER**

The petitioners in this case are accused 1 and 2 in a crime registered under Sec.379 of the IPC. The crux of the allegations against the petitioners is that they have committed theft of a Scorpio van from the house of the de facto complainant. That alleged incident took place on the night of 12/7/07. Crime No.131/07 was registered. Investigation was in progress.

2. While so, on 17/7/07 a Scorpio car, with about nine accused, was stopped by the police, in the course of routine highway patrol duty, on suspicion. The petitioners as well as the seven others were allegedly available in the vehicle. Some of them took to their heels. The petitioners and some others were apprehended. They were arrested. The vehicle was seized. The vehicle did not bear the number of the car

which was thieved in this crime. But the interrogation of the accused and the investigation revealed that the car in which the miscreants had traveled on the night of 17/7/07 was the car which was thieved in the instant crime. Recovery of the ignition switch was also made on the basis of the confession statement of the 1st accused. According to the police, interrogation of the accused 1 and 2 confirmed their complicity in the offence of theft of the car. From their confession, the complicity of the other accused persons who were not accused in the other crime was also discovered and they are also arrayed as accused in this case.

3. Formal arrest of the petitioners was recorded in this crime i.e., Crime No.131/07 on 17/7/07 itself. The petitioners continue in custody from 17/7/07.

4. The learned counsel for the petitioners submits that the petitioners are innocent. It is not known how the Investigator

came to know out of nine persons who were traveling in the car two of them i.e. the petitioners alone were responsible for the commission of theft. At any rate, the petitioners who have remained in custody from 17/7/07 may now be enlarged on bail, prays the learned counsel for the petitioners.

5. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the investigation is not complete. Some further time is required to complete the investigation. The petitioners may not be enlarged on bail at this early stage, prays the learned Public Prosecutor.

6. Having considered all the relevant inputs, I find merit in the opposition of the learned Public Prosecutor. This, I am satisfied, is a fit case where the Investigator must be granted some further time to complete the investigation. In a serious crime like the instant one, the prayer of the learned counsel for the petitioners does not appear to be absolutely justified.

7. In the result, this petition is dismissed. I may hasten to observe that the petitioners shall be at liberty to move this Court for bail again at a later stage of the investigation – not, at any rate, prior to 17/8/07. The Investigator shall, in the meantime, make every endeavour to complete the investigation.

**Sd/-**

**(R. BASANT, JUDGE)**

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P.S. to Judge